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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/502,390

07/26/2004

Shigeru Hayakawa

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12/07/2006

OLIFF & BERRIDGE, PLC
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ALEXANDRIA, VA 22320

EXAMINER

MANAHAN, TODD E

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|---------------------------------|--|
| Office Action Summary | Application No. 10/502,390 | Applicant(s) HAYAKAWA ET AL. | |
| | Examiner Todd E. Manahan | Art Unit 3732 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/26/04, 5/24/05</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

Figures 7-9 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Privas (United States Patent No. 5,417,258) in view of De Laforcade (United States Patent No. 6,000,405).

Privas discloses a container comprising a laminated container body 31 including a rigid outer layer 33 and an inner layer 24 delaminatable therefrom and a cap-like member 50 fitted on the neck portion of the container body. The cap-like member includes a pump cylinder 7 depending therefrom, a stem 9 depending into the pump cylinder and having a lower bottom portion to which a cylindrical piston 18 is provided, and a spring which biases the piston upwardly. The container may contain hair care products (see col. 6, lines 56-59). Privas discloses the invention essentially as claimed except for the hollow comb having a shaft and one or a plurality of discharge orifices. De Laforcade discloses a container for hair care products having a hollow comb 35 having a shaft 36 and a discharge orifice 40 affixed thereto. The shaft has a depression rod 21 protruding laterally outwardly from a lower portion thereof. The container includes a dispensing mechanism which may be a pump (see col. 5, lines 61-66). It would have been obvious to one skilled in the art to form the cap-like member of Privas with a hollow comb having a shaft and discharge orifice in view of De Laforcade in order to provide Better, more even application of the hair care product.

Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone (United States Patent No. 4,322,020) in view of De Laforcade (United States Patent No. 6,000,405).

Stone discloses a container comprising a double container body 1 including a rigid outer container 6 and an inner container 2 which is shrinkable upon depressurization and a cap-like

member 50 fitted on the neck portion of the container body. The cap-like member includes a pump cylinder depending therefrom, a stem 18 depending into the pump cylinder and having a lower bottom portion to which a cylindrical piston is provided, and a spring which biases the piston upwardly. The container may contain hair care products (see col. 1, lines 13-16). Stone discloses the invention essentially as claimed except for the hollow comb having a shaft and one or a plurality of discharge orifices. De Laforcade discloses a container for hair care products having a hollow comb 35 having a shaft 36 and a discharge orifice 40 affixed thereto. The shaft has a depression rod 21 protruding laterally outwardly from a lower portion thereof. The container includes a dispensing mechanism which may be a pump (see col. 5, lines 61-66). It would have been obvious to one skilled in the art to form the cap-like member of Stone with a hollow comb having a shaft and discharge orifice in view of De Laforcade in order to provide Better, more even application of the hair care product.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is 571 272- 4713. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Rodriguez can be reached on 571 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

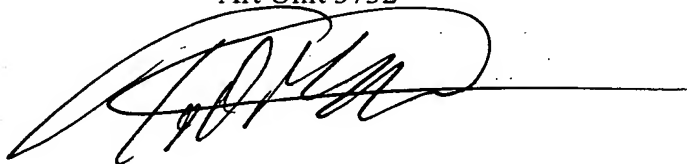
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Todd E. Manahan
Primary Examiner
Art Unit 3732

T.E. Manahan
1 December 2006

A handwritten signature in black ink, appearing to read 'T.E. Manahan', is written over a horizontal line.